



## COUNTY OF LOS ANGELES OFFICE OF AFFIRMATIVE ACTION COMPLIANCE

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Director

February 7, 2008

TO: Each Supervisor

FROM: Dennis A. Tafoya  
Director

A handwritten signature in black ink, reading "Dennis A. Tafoya", is written over the printed name and title.

SUBJECT: **LIVING WAGE PROGRAM ANNUAL REPORT**

Attached is the Living Wage Program (LWP) Annual Report for the period of October 1, 2006 through September 30, 2007. The LWP has been in effect for over eight years and currently impacts 17 departments and 248 contracts. Overall, departments are compliant with the provisions of the LWP.

The Office of Affirmative Action Compliance (OAAC) found departments generally to be compliant with the LWP requirements. Deficiencies were identified and referred to the appropriate departments for follow-up and corrective action. OAAC continues to provide multiple training opportunities and offer technical assistance to department staff to enhance and ensure compliance.

The OAAC's *Living Wage Annual Report* is a collaborative endeavor on the part of many OAAC employees, departments and the Living Wage Implementation Team consisting of the Chief Executive Office, Auditor-Controller, County Counsel, Internal Services Department, and the Department of Public Works. I would like to acknowledge and thank them for their hard work and commitment in successfully preparing this report and in supporting the review of the Living Wage Program.

I am available to answer any questions, or your staff may contact Ozie L. Smith, Senior Deputy of my staff, at (626) 943-5601.

DAT:CO:OLS:VRC

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### Attachments

c: Ellen Sandt, DCEO, Operations  
Department Heads

# **LIVING WAGE PROGRAM ANNUAL REPORT October 1, 2006 – September 30, 2007**

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## **I. Introduction**

The Office of Affirmative Action Compliance (OAAC) is responsible for monitoring compliance of the County's Living Wage Program (LWP) by providing guidance and information to departments concerning their responsibilities. Program monitoring is a joint responsibility of the contracting department and the OAAC wherein the contracting department provides the front-line monitoring effort while OAAC provides a centralized review of LWP contracts and assists departments in complying with the LWP requirements.

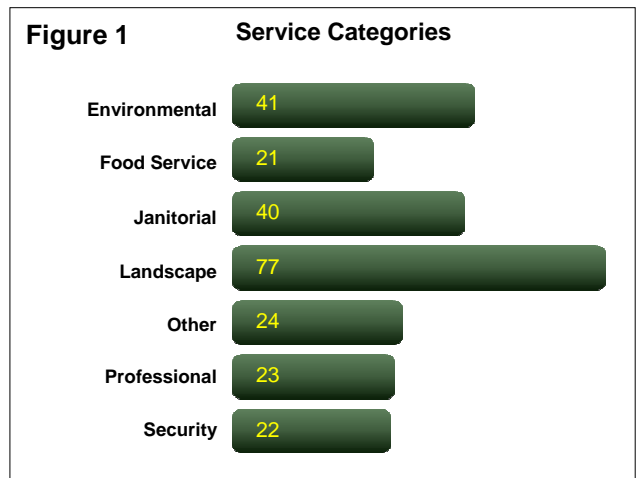
This LWP Annual Report is for the period of October 1, 2006 through September 30, 2007 and provides a summary of departmental and contractor compliance. This report includes new sections on contract cost tracking, updated rates, and data from contract employees regarding healthcare benefits. The report also includes the following:

- Department Contract Summary (Exhibit A) provides the department abbreviations used in our exhibits and a summary of the number of contracts per department.
- Active Living Wage Projects by Departments (Exhibit B), identifies active LWP contracts awarded or amended by the Board from October 22, 1999 through September 30, 2007. The contracts highlighted were awarded during this current reporting period.
- Sub-Contractor Report (Exhibit C), provides a list of current sub-contractors servicing Living Wage contracts.
- Exemption Report (Exhibit D), provides a list of current contractors with Living Wage exemptions.

## **II. Living Wage Program (LWP) Accomplishments**

The OAAC continues its task of ensuring that departments and contractors understand their respective roles and responsibilities and provides guidance on policy changes to ensure compliance with the LWP. During this period, the OAAC accomplished the following:

- In accordance with the Board of Supervisors instruction, worked with the Living Wage implementation Team to develop recommendations to update the living wage hourly pay and health care benefit rates. As a result, the Board adopted an increase in the rates as follows: employers paying \$2.20 (old rate \$1.14) per hour in health care benefits must pay a wage rate of \$9.64 (old rate \$8.32) per hour; and employers opting not to provide health care benefits must pay a living wage if \$11.84 (old rate \$9.46) per hour.
- Worked with the Living Wage Implementation Team to implement an automated solution to accurately track costs associated with living wage contracts.
- Worked with the Living Wage Implementation Team to develop procedures for County departments to standardize the implementation of the increased LWP rates.
- Provided technical assistance to departmental staff to improve their understanding of payroll monitoring.
- Provided LWP training to prepare new departmental staff for conducting pre-solicitation and pre-job conferences.
- Assisted departments to ensure that the LWP contract solicitations (RFP, IFB, and RFSQ), comply with Living Wage Ordinance (LWO) requirements.
- Provided guidance and technical assistance in 18 pre-solicitation conferences and 49 pre-job conferences.
- Monitored 248 Proposition A and cafeteria services contracts consisting of various services (see **Figure 1**). Monitoring activities included reviewing departmental living wage contracts, conducting employee interviews, responding to public and hotline inquiries/complaints, and reporting non-compliance issues to respective departments for corrective action and follow-up.
- Performed 17 compliance reviews and interviewed 166 LWP contract employees; assigned to contracts involving landscape, security, custodial, cafeteria and clerical support services.
- Served as a member of the LWP Implementation Team to assist in improving the LWP instructions.



### **III. Monitoring**

#### **a) Departmental Monitoring**

The OAAC reviewed forty-five (45) contracts (representing 17 departments) subject to the LWO to evaluate contractor and department completeness, accuracy, and timeliness of monitoring responsibilities under the LWP. The compliance reviews revealed overall compliance by respective departments in the monitoring of their LWP contracts. Monitoring functions included OAAC's review of departmental contractor/subcontractor solicitation development, evaluation process and post-award LWP monitoring.

Overall, compliance reviews indicate that departments are using the standardized monitoring forms, conducting the On-Site Administrative Reviews with contractors, following guidelines and are generally complying with the LWO requirements as well as relevant State and Federal labor laws. However, departments continue to require assistance from OAAC to refine their staff monitoring skills.

The majority of non-compliance issues identified were attributed to failure to consistently conduct field reviews. Field reviews consist of employee interviews with contract employees and conducting the annual on-site administrative review at the contractor's place of business. In addition, certain departments are not monitoring payroll documents on a regular basis as required. This failure to monitor increases the risk of material violations of the LWP. Our office is working with the respective departments to improve their monitoring efforts and correct deficiencies.

#### **b) Employee Interviews**

The OAAC conducted 166 contract employee interviews. During these interviews, questions are asked to validate contractor compliance with LWP requirements and to ascertain whether the employees annually receive the Notice to Employees Handout. The OAAC also confirms that the LWO Notice to Employees poster is displayed in a conspicuous area where contract employees can view it. The OAAC also validates that employees are paid in accordance with the LWO rates and that employees are working full-time.

In addition, the OAAC verifies that employee wages and benefits are accurately reflected in the contractors' payroll reports and that, if applicable, the employee is receiving health care. Of the 166 employees interviewed, 143 stated that their employer offered a health plan; 23 employees were not enrolled in any health plan. For further discussion on healthcare benefits and a revised interview questionnaire, see Section VIII(c) of this report.

The OAAC found no significant discrepancies between the employees' statements and the contractors' reported wages and health benefits. These reviews revealed isolated instances of contractor violations (e.g. labor law violations). Some departmental staff continues to misinterpret policies concerning overtime hours and other related pay issues. These issues are referred to respective departments for their follow-up and development of corrective actions. The OAAC found that some departments are not adhering to conducting the required number of interviews and/or conducting the interviews at least annually. It is a LWP guideline that departments interview 10% of the contract employees or, if the contractor utilizes 10 or fewer contract employees, then the department must interview all employees.

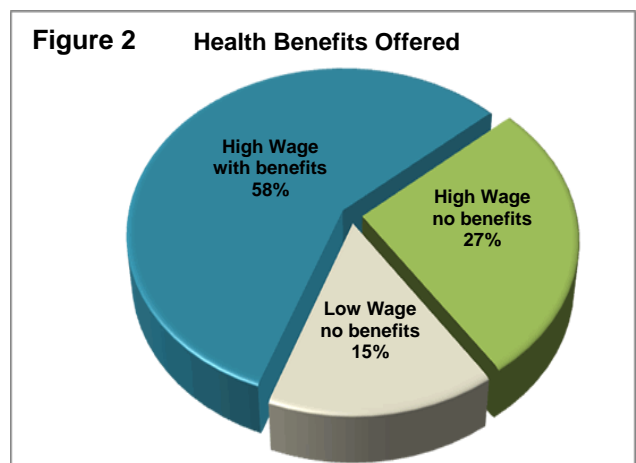
### c) **Employers Offering Healthcare Benefits**

Under the LWP, all employers must either pay their employees a living wage of \$11.84 per hour with or without health benefits, or a minimum of \$9.64 per hour, or contribute \$2.20 per hour toward health benefits. Contracts that existed prior to June 15, 2007, the effective date of the increased Living Wage rate, requires the new rates to apply to renewals, option years and amendments involving scope of work, term or compensation.

According to data gathered from County departments, 73% of contracts (180 of 248) offer some type of healthcare benefits to employees during the 2006-2007 periods. See **Figure 2** below. Fifty-eight (58%) percent offered healthcare benefits plus paid the higher LW rates and nearly 15% offered healthcare benefits and paid the lower LW rates.

For the period October 1, 2006 through September 30, 2007, employers offering health benefits are as follows:

- 68 contracts (27%) pay the living wage of at least \$11.84/\$9.46 per hour and do not offer any form of health benefits.
- 143 contracts (58%) pay \$11.84/\$9.46 per hour and also provide some form of health benefits (less than \$2.20/\$1.14 per hour).
- 37 contracts (15%) pay \$9.64/\$8.32 per hour and contribute at least \$2.20/\$1.14 per hour toward health benefits.



#### **IV. Technical Assistance and Training Activities**

The OAAC continues to provide technical assistance and training to County departmental contract staff regarding their responsibilities to enforce the LWP provisions for all Proposition A and cafeteria services contracts. The OAAC provides leadership and direction to County departments for clarifying and resolving LWP labor/payroll issues. The OAAC also provides technical assistance to departments during their solicitation process by reviewing contract information (e.g., solicitation documents, staffing plans, forms, exemption requests, and evaluation criteria) to ensure that departments meet all criteria specified in the County LWP.

In addition, the OAAC continues to train County contract staff and provide guidance for administering and monitoring LWP contracts. Actual assessment reviews and findings are used as training tools. The OAAC conducted two half-day countywide training sessions attended by 116 attendees.

#### **V. Contractor Exemption from the Living Wage**

The LWP provides for contractor-requested exemptions to the ordinance based on the following:

1. A Small Business consisting of 20 or fewer employees (full-time and/or part-time) with gross revenues of less than \$1 million in the prior 12 months inclusive of the proposed contract amount; or for technical or professional services with gross revenue of less than \$2.5 million in the prior 12 months inclusive of the proposed contract amount.
2. A Non-Profit Organization as defined in IRS Code § 501(c)(3).
3. An employer with a collective bargaining agreement in which the County's LWP provisions are specifically superseded; if not all, those specific LWP provisions that are superseded.
4. An employer who has received or will receive an aggregate sum of less than \$25,000 in one or more Proposition A contracts and/or one or more cafeteria services contracts.

Currently, there are 24 contracts that are exempt to the LWP. Since the inception of the LWP, departments have granted 98 businesses exemptions to the LWP as follows:

- 64 Small Businesses
- 12 Non-Profit Organizations

- 22 Collective Bargaining Agreements

During the reporting period, two exemptions were granted; one as small business and one as a non-profit organization. The “Living Wage Projects – Consolidated by Exemption” report (*Exhibit D*) is a listing of contractors that departments have determined to be exempt from the provisions of the LWP.

## **VI. Standardized Monitoring Process Update**

In 2005, in response to the instructions from the Board to improve the County’s process for monitoring contracts for compliance with the LWO, the Living Wage Implementation Team implemented enhancements to the LWP appropriate in many areas. One area was in standardizing the LWO monitoring forms and procedures. On December 6, 2005, OAAC issued new forms and guidelines to all departments in an effort to improve the Countywide LWP contract monitoring process.

During the current reporting period, departments continue to have success with implementing the revised forms and adherence to the guidelines. The Monthly Compliance Report Checklist is utilized to assist in verifying that all the requirements of the LWP have been met (i.e. monthly payroll reports are accurate and have been submitted on time to the department). The Payroll Reporting Discrepancy Report is utilized to identify any discrepancies found on the contractor’s payroll submittals. The On-site Administrative Compliance Reviews are conducted and the Request for Corrective Action forms is utilized for follow-up when indicated.

The Employee Interview Questionnaire is utilized when conducting the annual on-site employee interviews. The new and revised forms have significantly improved Countywide monitoring of the LWP.

## **VII. Evaluation of Labor Law/Payroll Violations\***

Labor Law/Payroll Violation Evaluations for Contracts Subject to the Living Wage:

On June 19, 2001, your Board established a County Labor Law/Payroll Violations Assessment Team (Assessment Team) to review and assess the severity and extent of labor violations committed by firms submitting proposals to provide services under Proposition A and cafeteria services contracts. The Assessment Team consists of a representative from the Auditor-Controller, Internal Services Department, and the Chief Executive Office with County Counsel serving as the legal advisor.

The Auditor-Controller (A-C) reports that based on the severity and number of the reported violations, the Assessment Team could recommend reduced evaluation scores that would have a significant impact on which proposer receives the contract award.

For the reporting period October 1, 2006 through September 30, 2007, the Assessment Team evaluated seventeen (17) proposers with identified labor law/payroll violations. The following summarizes their recommendations:

- Twelve of the seventeen proposers were classified as having insignificant violations and received a two percent (2%) deduction or less in the recommended bid evaluation scores.
- Five of the seventeen proposers were classified as having minor violations and received a recommended deduction in score ranging from three to four percent (3% - 4%). *\*Source: Auditor-Controller*

### **VIII. Living Wage Program (LWP) Objectives Update**

On March 30, 2007, your Board instructed the Chief Executive Office (CEO), to work with other appropriate departments, to develop and implement an automated solution to accurately track and project impacts associated with Living Wage contracts. In conjunction with your instructions, CEO agreed that the LWP Annual Report would be enhanced to include the following:

- The total number and costs of Living Wage contracts.
- Updated information regarding annual Living Wage rate increases.
- Utilization and effectiveness of paid employee healthcare benefits.

The following subsections highlight implementation of the directives above.

#### **a) Automated Tracking of Contract Costs**

The costs of Living Wage contracts were determined by utilizing the prescribed methodology outlined in the CEO's memorandum to the Board of Supervisors dated March 30, 2007. The current methodology utilizes information obtained from the OAAC database of active Living Wage contracts which the A-C reconciled with eCAPS to validate contract costs.

The results are presented in **Table 1**.

**Table 1**

Total Number of LW Contracts	<b>248</b>
Total Cost of LW Contracts FY 06-07	<b>\$ 154,924,860*</b>

*\*Source: Auditor-Controller & Chief Executive Office*

For an itemized list of costs per contract, see **Exhibit B**.

#### **b) Review of Living Wage Rates\***

The A-C performed its annual review of the current Living Wage rates using the methodology employed when developing the initial County Living Wage rate in 1999. The results of these calculations have been provided to OAAC for presentation in this annual report as instructed by your Board.

The review revealed that Living Wage hourly rates would increase as follows if considered for approval by your Board: \$9.64 per hour with health benefits of at least \$2.65 per hour **or** \$12.29 per hour without health benefits as compared to the current rates. See **Table 2** below:

**Table 2**

<b>Description</b>	<b>Current Hourly Rate</b>	<b>Updated Hourly Rate</b>	<b>Variance</b>	<b>Percentage Change</b>
Hourly rate with insurance provided by contractor	\$ 9.64	\$ 9.64	\$ 0.00	0.00%
Cost of health insurance	\$ 2.20	\$ 2.65	\$ 0.45	20.25%
Hourly rate without insurance provided by the contractor	\$11.84	\$12.29	\$ 0.45	3.77%

*\*Source: Auditor-Controller*

The above statistics are for information purposes only and not a recommendation nor a request for approval to increase the County's Living Wage rates.

#### **c) Interview Questionnaire**

The initial questionnaire was revised in 2005 by the Living Wage Implementation Team in compliance with your instructions to standardize monitoring forms. The questionnaire currently requests information concerning whether employees are receiving health insurance from their employer and, if not, whether they are enrolled in any health plan. A summary of our findings are found in Section III(b) of this report.

To address your Board's concern about the success in achieving the program's intent to provide health benefits to contract employees, a revised questionnaire will be presented to the Living Wage Implementation Team. On the advice of County Counsel, we have determined that the best way to gather useful information without violating the privacy rights of workers is to ask general, open-ended questions as to the usefulness of any health benefits provided by employers and/or whether the increase in wages resulting from the LWO enables workers to pay for health insurance/health care on their own. The responses to these questions will not yield statistical data regarding the impact on the County's health care costs. Depending upon the willingness of contract employees to provide candid responses, however, it may yield probative anecdotal information.

## **IX. Living Wage Hotline Calls**

The Los Angeles County Living Wage Hotline is designed to answer calls reporting suspected Living Wage violations 24 hours per day, 7 days per week. Our office received a total of 48 calls during the report period. The response time for 34 calls (70%) was immediate with 14 calls (30%) receiving a response time of less than 2 hours. 35 calls were related to Living Wage; 13 were not. See **Table 3** below.

Our office identified 6 complaints that were substantiated and an investigation was conducted by the respective department. Appropriate corrective action was taken.

**Table 3**

<b>Classification</b>	<b>Number of Calls</b>
Investigations	6
Rates	23
General	6
Non-Living Wage	13
Total	<b>48</b>

The Living Wage Toll-Free Hotline telephone number is (888) 943-wage or (888) 943-9243 and is included on the Posters and on the Notice to Employees Handout form that is provided to the contractor and distributed to their contract employees annually.

## **X. Conclusion**

During this reporting period, the OAAC found departments generally to be compliant with the LWP requirements. Deficiencies were identified and referred to the appropriate departments for follow-up and corrective action. Recurring deficiencies involved departmental monitoring procedures and some areas of departmental compliance with the LWP Implementation Instructions.

The OAAC continues to monitor and provide technical assistance to departments and contractors. The OAAC will also address recurring problem areas in future LWP training sessions. The OAAC will continue to oversee the LWP solicitation process and collaborate with the LWP Implementation Team (Chief Executive Office, Auditor-Controller, County Counsel, Internal Services Department, and the Department of Public Works) to strengthen and interpret the LWP Implementation Instructions and address any new developments or issues to ensure countywide compliance.